

COURT OF APPEALS OF OHIO, SEVENTH APPELLATE DISTRICT,
MAHONING COUNTY

State v. Posey

2026-Ohio-1033 · No. 25 MA 0087 · Decided March 25, 2026

SUMMARY

The Ohio Seventh District Court of Appeals affirmed Herman Posey III's 36-month prison sentence following guilty pleas to vehicular assault and failure to stop after an accident. The court held that the trial court properly considered Community Corrections Association reports concerning Posey's electronic house-arrest violations under Ohio's sentencing statutes and that Posey was given an opportunity for allocution.

CASE DETAILS

COURT	Court of Appeals of Ohio, Seventh Appellate District, Mahoning County
WRITING FOR THE COURT	Mark A. Hanni; Cheryl L. Waite; Carol Ann Robb
JURISDICTION	Ohio Court of Appeals, Seventh Appellate District, Mahoning County
DECIDED	March 25, 2026
DOCKET	25 MA 0087
DISPOSITION	affirmed
PROCEDURAL POSTURE	Posey pleaded guilty to vehicular assault and failure to stop after an accident. After the trial court imposed concurrent prison terms totaling 36 months, he appealed, arguing that the sentence was contrary to law because the court considered reports concerning his electronic-monitoring house-arrest violations.
STANDARD OF REVIEW	A felony sentence must be upheld unless the evidence clearly and convincingly does not support the trial court's findings under the applicable sentencing statutes or the sentence is otherwise contrary to law.
PRECEDENTIAL VALUE	Published Ohio Court of Appeals opinion
PARTIES	Herman Posey, III v. State of Ohio

TOPICS

sentencing

criminal procedure

standard of review

statutory interpretation

appellate procedure

PRACTICE AREAS

Ohio criminal sentencing

felony sentencing

appellate criminal procedure

QUESTIONS PRESENTED

1. Whether the trial court unlawfully relied on Community Corrections Association reports concerning Posey's electronic-monitoring house-arrest violations when imposing sentence.
2. Whether Posey's sentence was contrary to law because the house-arrest violation information was allegedly outside the record.

HOLDINGS

1. Under R.C. 2929.19(A) and (B)(1)(a), the trial court was permitted to consider the Community Corrections Association letters reporting Posey's house-arrest violations because they were information relevant to sentencing presented before or at the sentencing hearing.
2. Posey's sentence was not contrary to law, and his sole assignment of error was properly overruled.

KEY QUOTATIONS

“Then, before imposing sentence the court shall, [c]onsider the record, any information presented at the hearing by any person pursuant to division (A) of this section, and, if one was prepared, the presentence investigation report . . . , and any victim impact statement . . .” (¶ 16)

“This case is more akin to Yates, 2011-Ohio-3619 (2d Dist.) and Taylor, 2024-Ohio-2107 (6th Dist.) than to Fowler, 2022-Ohio-3499 (6th Dist.).” (¶ 25)

“Additionally, the EMHA violations were just one of many factors the trial court considered in sentencing Appellant.” (¶ 28)

FACTUAL BACKGROUND

Posey struck a sixteen-year-old victim with his truck while the victim was entering school, then fled without stopping to assist or report the accident. The victim suffered serious and permanent injuries requiring numerous surgeries. While awaiting sentencing under electronically monitored house arrest, Posey allegedly violated the conditions three times. The trial court considered those violations, along with Posey's criminal history, the presentence investigation report, the victim-impact evidence, and other sentencing information.

PROCEDURAL HISTORY

A Mahoning County grand jury indicted Posey on vehicular assault, failure to stop after an accident, and driving under a financial-responsibility-law suspension. Pursuant to a plea agreement, Posey pleaded guilty to the first two offenses, and the State dismissed the third charge and recommended a two-year prison sentence. Following a presentence investigation and sentencing hearing, the trial court imposed concurrent terms of 36 months and 18 months, respectively. The Seventh District affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Marcum, 2016-Ohio-1002, ¶ 1
- State v. McManus, 2015-Ohio-2393, ¶ 31 (8th Dist.)
- State v. Yates, 2011-Ohio-3619 (2d Dist.)
- State v. Taylor, 2024-Ohio-2107, ¶ 21 (6th Dist.)
- State v. Fowler, 2022-Ohio-3499 (6th Dist.)
- State v. Sanders, 2003-Ohio-1163, ¶ 6 (8th Dist.)
- State v. Smith, 2013-Ohio-2580 (2d Dist.)

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